

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DORU TSANGANE, A,

Plaintiff,

- against -

THE CITY UNIVERSITY OF NEW YORK
and BARUCH COLLEGE,

Defendants.

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DEBORAH A. BATTS, United States District Judge.

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06 Civ. 15366 (DAB) (JCF)
ADOPTION OF REPORT
AND RECOMMENDATION

This matter is before the Court upon the August 28, 2008 Report and Recommendation of United States Magistrate Judge James C. Francis IV, which was entered on the docket on August 28, 2008. Pursuant to 28 U.S.C. § 636(b)(1)(C), upon the issuance of a United States Magistrate Judge's Report and Recommendation and "[w]ithin ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations." 28 U.S.C. § 636(b)(1)(C); see also Fed. R. Civ. P. Rule 72(b) (providing that "[w]ithin 10 days after being served with a copy of the recommended disposition, a party may serve and file specific, written objections to the proposed findings and recommendations"). Despite having being advised of this procedure in Magistrate Judge Francis' August 28, 2008 Report and Recommendation, to date, neither Plaintiff nor Defendants have filed any objections.

Where no timely objection to a Report and Recommendation has been made, "a district court need only satisfy itself that there is no clear error on the face of the record." Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). After conducting the appropriate level of review, the court may then accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1)(C); see also Local Civil Rule 72.1(d).

Having reviewed the Report and Recommendation, and finding no clear error on the face of the record, see 28 U.S.C. § 636(b)(1)(B), it is hereby ORDERED AND ADJUDGED as follows:


1. The Report and Recommendation of United States Magistrate Judge James C. Francis IV, dated August 28, 2008, be and the same hereby is, APPROVED, ADOPTED, and RATIFIED by the Court in its entirety;

2. Pursuant to Magistrate Judge Francis' recommendations, it is ORDERED as follows: Defendants' Motion to Dismiss Plaintiff's claims under 29 U.S.C. § 621 et seq. ("ADEA") pursuant to Fed. R. Civ. P. 12(b)(6), and Defendants' Motion to Dismiss Plaintiff's claims under N.Y. Exec. Law § 296 ("NYHRL") pursuant to Fed. R. Civ. P. 12(b)(6) are GRANTED. In all other respects, the Motion should be denied without prejudice to being renewed after discovery has been taken.

3. Defendants shall answer Plaintiff's remaining claims under Title VII within thirty (30) days of the date of this Order.

SO ORDERED

DATED: New York, New York
October 8, 2008



DEBORAH A. BATTS
United States District Judge